

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	
DAVID G. WALLACE JR. Debtor.	§	Case No. 15-31594-H4-7
	§	
	§	Chapter 7
<hr/>		
	§	
RONALD ELLISOR, <i>et al</i>	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	Adversary No. 15-03241
	§	
DAVID G. WALLACE JR. Defendant.	§	
	§	

**DEFENDANT’S CERTIFICATE PURSUANT TO THE COURT’S MAY 6, 2016 ORDER
REGARDING DEFENDANT’S MOTION TO SHOW AUTHORITY AND
WITHDRAWAL OF THE MOTION WITHOUT PREJUDICE**

[Related to Docket Nos. 23, 29 and 32]

TO THE HONORABLE JEFF BOHM, UNITED STATES BANKRUPTCY JUDGE:

David G. Wallace, Jr. (“**Wallace**”) files his *Certificate Pursuant to the Court’s May 6, 2016 Order Regarding Defendant’s Motion to Show Authority and Withdrawal of the Motion Without Prejudice* (the “**Certificate**”), and shows:

1. At this time, Wallace has elected to **not** prosecute his *Motion to Show Authority* (the “**Motion**”) [Docket No. 23] at the scheduled May 12, 2016 hearing. Wallace reserves any and all rights to re-urge the Motion and/or the allegations contained therein at a later date and time as may be appropriate.

BACKGROUND

2. On September 30, 2015, Charles Thomas Schmidt filed the above-captioned adversary proceeding (the “**Adversary Proceeding**”) on behalf of Ronald Ellisor and fifty-nine

(59) other named plaintiffs (collectively, the “**Plaintiffs**”) against David G. Wallace, Jr. seeking an exception to discharge pursuant to 11 U.S.C. §§ 523(a)(2)(A), (a)(4) and (a)(19).

3. After an initial motion to dismiss the Plaintiffs complaint was filed, on February 29, 2016, the Plaintiffs, via Charles Thomas Schmidt, filed their *First Amended Complaint Excepting Debts from Discharge under 11 USC Section 523* (the “**First Amended Complaint**”).

4. Also on February 29, 2016, Barbara Doreen House filed a separate pleading titled *First Amended Complaint of Barbara Doreen House Excepting Debts from Discharge under 11 USC Section 523* (the “**House Amended Complaint**”). [See Docket No. 17]. The House Amended Complaint was filed by Attorney David A. Bryant, Jr. [*Id.* at 26].

5. On March 21, 2016, Wallace filed motions to dismiss both the First Amended Complaint and the House Amended Complaint (the “**Second Motions to Dismiss**”). [Docket Nos. 18 and 19, respectively].

6. On April 4, 2016, Simon Mayer, counsel for Wallace, conferred with David A. Bryant, Jr. During the conference, David A. Bryant, Jr. represented that Charles Thomas Schmidt did not and has never represented Barbara Doreen House.

7. On April 5, 2016, the Court held a hearing on the Second Motions to Dismiss. During the hearing, David A. Bryant, Jr. explained to the Court that Charles Thomas Schmidt did not represent Barbara Doreen House in the Adversary Proceeding or certain state court litigation. However, when questioned by the Court and facing a possible dismissal of his purported client’s claim, David A. Bryant, Jr. modified his prior statement and indicated that Charles Thomas Schmidt did represent Barbara Doreen House at the initiation of the Adversary Proceeding. Charles Thomas Schmidt argued that he had represented Barbara Doreen House in both the

Adversary Proceeding and in the state court litigation. He further asserted that he had recently been informed that Mr. Bryant was now representing Barbara Doreen House in this case.

8. At the conclusion of the hearing, this Court instructed counsel for Wallace to file the Motion and set a hearing on the Motion to occur on May 12, 2016.

9. On April 15, 2016, Wallace filed the Motion. [Docket No. 23].

10. On May 4, 2016, the Plaintiffs filed their *Response to the Motion to Show Authority* (the “**Response**”). [Docket No. 29].

11. On May 6, 2016, the Court issued its *Order Regarding Defendant’s Motion to Show Authority* (the “**Order**”). [Docket No. 32].

12. The Plaintiffs’ Response and the 171 pages of purported engagement letters attached thereto were carefully analyzed. While concerns exist regarding some of the purported engagement letters, Wallace has elected not to prosecute the Motion at the scheduled May 12, 2016 hearing.

13. Therefore, the Motion will not be prosecuted at the scheduled May 12, 2016 hearing and is hereby withdrawn without prejudice. Wallace hereby reserves any and all rights to re-urge the Motion and/or one or more of the allegations contained therein at a later date and time as may be appropriate.

Respectfully submitted,

/s/ Simon Mayer

Wayne Kitchens TBN: 11541110

wkitchens@hwa.com

Simon R. Mayer TBN: 24060243

smayer@hwa.com

HUGHESWATTERSASKANASE, LLP

1201 Louisiana, 28th Floor

Houston, Texas 77002

Telephone: 713-759-0818

Facsimile: 713-759-6834

COUNSEL FOR

DAVID WALLACE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading was served via the method indicated to the parties listed below on May 9, 2016.

Via ECF

Thomas Schmidt
SCHMIDT LAW FIRM, PLLC
7880 San Felipe, Suite 210
Houston, Texas 77063

Via U.S. Mail

David A. Bryant, Jr.
THE BRYANT LAW FIRM
801 Congress, Suite 250
Houston, Texas 77002

Via Electronic Mail

Counsel for Rodney Tow, Chapter 7 Trustee
Christopher R. Murray
Charles M. Rubio
Diamond McCarthy, LLP
909 Fannin Street, Suite 1500
Houston, Texas 77010
cmurray@diamondmccarthy.com
crubio@diamondmccarthy.com

/s/ Simon Mayer

Simon Mayer